Before The
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554

| | | |
|---|---|---|
| In the Matter of | ) | |
| | ) | |
| Amendment of Parts 2, 25 and 97 of the | ) | ET Dkt. No. 98-142 |
| Commission's Rules with Regard to the | ) | |
| Mobile-Satellite Service Above 1 GHz | ) | |

**OPPOSITION TO PETITION FOR RECONSIDERATION**

Pursuant to Section 1.429 of the Commission's Rules, Globalstar, L.P. ("GLP") and Globalstar USA, LLC ("GUSA") hereby oppose the Petition for Reconsideration of the Report and Order in the above-referenced docket filed by the Society of Broadcast Engineers ("SBE").[1] GLP owns and operates the international Mobile-Satellite Service ("MSS") business offered through the Globalstar™ satellite constellation, which is licensed to L/Q Licensee, Inc. ("LQL").[2] GUSA is the North American service provider for Globalstar.

In the Report and Order, the Commission adopted an allocation for MSS feederlinks at 6700-7025 MHz and grandfathered three existing MSS gateway earth

---

[1] See Report and Order, 17 FCC Rcd 2658 (2002). Public notice of SBE's Petition for Reconsideration appeared at 67 Fed. Reg. 42257 (June 21, 2002).

[2] See Loral/Qualcomm Partnership, L.P., 10 FCC Rcd 2333 (Int'l Bur. 1995). GLP and GUSA participated in this proceeding by filing joint comments, reply comments and other ex parte presentations with GLP, LQL and AirTouch Communications, Inc. (later Globalstar USA, LLC).

stations to use the 7025-7075 MHz band. LQL is licensed to use the 5091-5250 MHz and 6875-7055 MHz bands for feeder uplinks and downlinks, respectively.[3] GUSA and its affiliate Globalstar Caribbean Ltd. ("GCL") hold licenses for gateway earth stations in Clifton, Texas, and Cabo Rojo, Puerto Rico, which are authorized to use these feederlink frequencies.[4] The Clifton and Cabo Rojo earth stations are two of the three stations grandfathered to use the spectrum in the 7025-7075 MHz band.[5]

Pursuant to the decisions in the Report and Order, MSS feederlinks at 6875-7075 MHz are co-primary with Broadcast Auxiliary Stations ("BAS") operating in the same band. The Commission specifically found that MSS feederlinks and BAS stations can "all be accommodated" in the band through limits on the maximum PFD produced at the earth's surface for MSS feeder downlinks and through the coordination procedures specified in Part 25 and Part 101 of the Commission's Rules for satellite and terrestrial stations. In an effort to derogate from the co-primary status of MSS feederlinks in the 7 GHz band, SBE has requested three

---

[3] L/Q Licensee, Inc., 11 FCC Rcd 16410 (Int'l Bur. 1996).

[4] Call Signs E970199, E000342-345 (Clifton); E990335-337 (Cabo Rojo). The Commission recently granted applications (File Nos. SES-T/C-20020117-00043; SES-T/C-20020117-00042) to transfer control of GUSA and GCL to Globalstar Corporation, a wholly-owned subsidiary of GLP. As part of its plan for reorganization of the Globalstar business, GLP is assuming the retail service provider role in North America. Once the transaction is closed, Globalstar Corporation will become the parent of the licensees of the Clifton and Cabo Rojo earth stations.

[5] See Report and Order, ¶ 39; Footnote NG172.

changes to the rules adopted in the Report and Order. GLP and GUSA submit that all three of SBE's proposals should be rejected.

## I. The Commission Should Not Adopt a Standard Coordination Zone for MSS Earth Stations.

SBE requests that the Commission limit the requirement to coordinate pursuant to Part 25 (satellite) and Part 101 (terrestrial) with MSS earth stations operating at 7 GHz to BAS stations within a 145-kilometer radius of the earth station facility. SBE Petition, at 1-2. As SBE points out, the 145-kilometer radius is based on a filing submitted by GLP and GUSA proposing coordination procedures for MSS earth stations and BAS stations.

Limiting the requirement to coordinate to only those facilities with a real potential to cause interference does reduce the burden for both industries. However, the 145-kilometer radius is based on the characteristics of GUSA's Clifton, Texas, earth station. It would be inadequate to protect GCL's Cabo Rojo earth station, and may be insufficient to protect other earth stations depending upon their technical parameters. Moreover, as GLP and GUSA have previously noted, terrain shielding and other factors may actually reduce the desired coordination distance from 145 kilometers in other cases.

GLP and GUSA support finding ways to make the coordination process efficient. However, the coordination zone distance of 145 kilometers only applies to one MSS earth station. Rather than adopting a standard that may be over- or underinclusive, the Commission should allow the coordination process established

in the Report and Order to develop and should rely on affected parties to identify sound procedures for each specific earth station.

## II. The Commission Must Reject SBE's Proposal to Protect Only Feederlink Spectrum in Use Rather Than Spectrum Assigned.

SBE complains that BAS stations will be required to protect earth stations operating in the entire band allocated for MSS feederlinks, from 6875-7075 MHz. SBE Petition, at 2-3. SBE opines that BAS stations should only have to protect frequencies that MSS earth station operators demonstrate that they are using rather than those that they are assigned. SBE claims that as usage changes, new coordination parameters could be developed between earth station and BAS operators.

SBE is simply wrong on the premises of this proposal. As the Commission pointed out in the Report and Order (¶ 58), long-standing practice and precedent require a newcomer station to protect all existing co-primary *stations*. A station is assigned specific frequencies, and those frequencies must be the basis for interference protection. A coordination rule based on usage would be impractical and would place the parties and the Commission in the position of having to resolve daily disputes over which station can use which frequencies at what times and for how long. The existing "first-in-time, first-in-right" principle based on the frequency assignment is an objective and clear standard that has worked satisfactorily for over almost 70 years. SBE has provided no reason to change it.

Moreover, as GLP and GUSA noted for the record, and as the Commission found in the Report and Order, there is "hard-wired" direct translation between service frequencies and feederlink frequencies.[6] All the feederlink spectrum assigned to the Globalstar system is "in use" for traffic on the system. Therefore, there is no unused feederlink spectrum within the spectrum assigned.

SBE's objection (SBE Petition, at 2-3) to the differences in licensing between satellite earth stations and terrestrial fixed and mobile stations was raised by the Fixed Wireless Communications Coalition in IB Docket No. 00-203. The Commission recently dismissed the Coalition's proposals because, like SBE, the Coalition provided no evidence demonstrating injury to terrestrial services.[7] There is no reason to address such issues in this docket, not only because they are not germane to this allocation proceeding, but also because SBE has also provided no evidence of any injury to BAS resulting from the Commission's earth station licensing rules.

## III. The Commission Must Reject SBE's Attempt to Strip Interference Protection from Incumbent MSS Earth Stations.

SBE asks that the Commission set February 7, 2002, the release date of the Report and Order, as the date after which new BAS stations will be deemed

---

[6] See Report and Order, ¶ 39 and note 101.

[7] See FWCC Request for Declaratory Ruling on Partial-Band Licensing of Earth Stations in the Fixed-Satellite Service That Share Terrestrial Spectrum, FCC 02-17 (released Jan. 30, 2002).

newcomers with respect to the three MSS earth stations grandfathered to use the 7025-7075 MHz band. SBE Petition, at 3-4. Adoption of this proposal would arbitrarily strip several years of interference protection for GUSA's Clifton earth station and from GCL's Cabo Rojo earth station.

SBE has offered no rational basis for its proposal. SBE complains that adoption of the co-primary allocation for MSS feeder links at 6875-7075 MHz creates two classes of BAS stations, those that have greater interference protection rights and those that have lesser rights with respect to licensed MSS earth stations. But, that result follows from the "first-in-time, first-in-right" principle applicable to *all* Title III licensees. SBE has made well-known its objection to co-primary MSS feeder links in the 6875-7075 MHz band, and clearly wants to vitiate all rights to interference protection for these stations. However, the desire to give all BAS stations "super-primary" rights no matter when their applications were filed or granted is not a rational reason to deny interference protection rights to three duly authorized earth stations.

SBE reveals its true motive when it blatantly threatens unnecessary interference into the three grandfathered MSS earth stations operating at 7025-7075 MHz:

> [W]hile SBE hopes that the three "grandfathered" MSS feeder downlink stations, and any newcomer MSS feeder downlink stations that might get subsequently authorized, can be protected against interference, from earlier-authorized TV Pickup stations with superior Title III first-in-time rights, such interference protection cannot be guaranteed if a major news event should occur in the vicinity of an MSS feeder downlink.

SBE Petition, at 4. Threats such as these should not be countenanced by the Commission.

Whatever legal objections SBE and GLP/GUSA may have to the rules and policies adopted in the Report and Order, the Commission has clearly made an attempt to balance the spectrum needs of the broadcast industry with those of the MSS industry. Unhappy with this balance, SBE petulantly challenges the Commission's decision not to favor the broadcast industry absolutely. This is totally unwarranted.

SBE suggests that, if a "news" event occurs nearby an MSS earth station using 7 GHz downlinks, with only two "clear channels" for BAS stations at 2 GHz and half a dozen television networks, the earth station might experience interference as broadcasters ignore the frequency coordination protocols established by the Commission. As a practical matter, there are other BAS channels in addition to the two at 7025-7075 MHz (including two channels at 7075-7125 MHz) that are usable for on-site broadcasts, and, through standard practices, broadcasters can share the available BAS channels as necessary. Broadcasters are experienced with the need to comply with frequency coordination procedures and realize the need to make accommodations when BAS channels are subject to high demand.

Beyond that, underlying SBE's interference scenario is a flawed value judgment that the news broadcast should be taking precedence at the expense of MSS transmissions. The Commission generally attempts to avoid making value judgments like those employed by SBE, and, therefore, relies upon coordination

procedures to ensure maximum and efficient frequency usage. In fact, if such a newsworthy event occurs at the remote site near an MSS earth station, the only phones that may be available to journalists and others are satellite phones. Even more significantly, there may be a critical need for emergency response personnel and/or law enforcement officials to be able sustain interference-free communications. The services provided by MSS phones may carry safety of life implications, and would require protection as much as the BAS broadcasts.

In any event, the Commission has expressly found that it is possible for MSS earth stations and BAS stations to coordinate co-primary usage of the 6875-7075 MHz band. The evidence in the record fully supports that conclusion. SBE has pointed to no evidence at all to change that result. It is well settled Commission law that reconsideration "will not be granted merely for the purpose of again debating matters on which the tribunal has once deliberated and spoken."[8] SBE's Petition does nothing more than raise arguments already rejected in the Report and Order, and, therefore, should be denied.

---

[8] WWIZ, 37 FCC 685, 686 (1964), aff'd sub nom. Lorain Journal Co. v. FCC, 351 F.2d 824 (D.C. Cir. 1965), cert. denied, 383 U.S. 967 (1966).

## IV. Conclusion

For the reasons set forth above, GLP and GUSA urge the Commission to reject SBE's proposals and deny its Petition for Reconsideration in this proceeding.

Respectfully submitted,

GLOBALSTAR, L.P. and
GLOBALSTAR USA, LLC

By: 
William D. Wallace

CROWELL & MORING LLP
1001 Pennsylvania Avenue, N.W.
Washington D.C. 20004
(202) 624-2500

Of Counsel:

William F. Adler
Vice President, Legal and
Regulatory Affairs
Globalstar, L.P.
3200 Zanker Road
San Jose, CA 95134
(408) 933-4401

Michael Kozlowski
Director of Regulatory Engineering
Globalstar USA, LLC
1340 Treat Boulevard
Walnut Creek, CA 94596
(925) 988-4549

Date: July 8, 2002

1922217

## CERTIFICATE OF SERVICE

I, William D. Wallace, hereby certify that I have on this 8th day of July, 2002, caused to be served true and correct copies of the foregoing "Opposition to Petition for Reconsideration" upon the following parties via hand-delivery, as noted with an asterisk (*), or first-class, postage prepaid, United States mail:

Donald Abelson *
International Bureau
Federal Communications Commission
445 12th Street, S.W.
Washington, D.C. 20554

Thomas S. Tycz *
International Bureau
Federal Communications Commission
445 12th Street, S.W.
Washington, D.C. 20554

Frank Peace *
International Bureau
Federal Communications Commission
445 12th Street, S.W.
Washington, D.C. 20554

Ronald Repasi *
International Bureau
Federal Communications Commission
445 12th Street, S.W.
Washington, D.C. 20554

Karl A. Kensinger *
International Bureau
Federal Communications Commission
445 Twelfth Street, S.W., Room 6-A663
Washington, D.C. 20554

Howard Griboff *
International Bureau
Federal Communications Commission
445 12th Street, S.W.
Washington, D.C. 20554

Ed Thomas *
Office of Engineering & Technology
Federal Communications Commission
445 12th Street, S.W.
Washington, D.C. 20554

Bruce Franca *
Office of Engineering & Technology
Federal Communications Commission
445 12th Street, S.W.
Washington, D.C. 20554

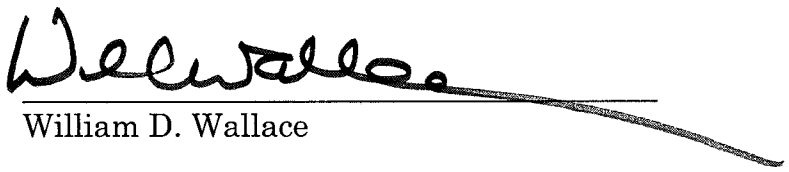
Julius P. Knapp *
Office of Engineering & Technology
Federal Communications Commission
445 12th Street, S.W.
Washington, D.C. 20554

Tom Mooring *
Office of Engineering & Technology
Federal Communications Commission
445 12th Street, S.W.
Washington, D.C. 20554

Thomas Derenge *
Office of Engineering & Technology
Federal Communications Commission
445 12th Street, S.W.
Washington, D.C. 20554

Geraldine Matise *
Office of Engineering & Technology
Federal Communications Commission
445 12th Street, S.W.
Washington, D.C. 20554

Christopher D. Imlay
Booth, Freret, Imlay & Tepper
5101 Wisconsin Avenue, N.W.
Suite 307
Washington, D.C. 20016



William D. Wallace